

REMARKS

The office action of February 23, 2005, has been carefully considered.

It is noted that claims 1-3, 5, 9, 12-14, 16 and 17 are rejected under 35 U.S.C. 103(a) over the patent to Sheeks et al.

Claims 1-3, 5, 9-13, 18 and 19 are rejected under 35 U.S.C. 103(a) over the patent to Wilkinson.

Claims 14-17 are rejected under 35 U.S.C. 103(a) over Wilkinson and the patent to McDermott.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

The Examiner relies on the same references as cited in the last Office Action. All these references were discussed in detail in the last filed amendment and, in order to avoid redundancy, those arguments are incorporated herein by reference since they remain applicable. The following additional comments are provided

in response to the comments of the Examiner beginning on page 14 of the Office Action.

The Examiner in his response cites *In re Gazda* for the proposition that reversal of essential working parts of a device involves only routine skill in the art. Applicant respectfully submits that the facts and decision in *In re Gazda* do not apply to the present application. In *In re Gazda*, Whitehead teaches a clock that is held stationary relative to an automobile, while Amburgey shows the opposite arrangement in which the clock itself is turnably mounted. Thus, there were two constructions in the prior art that were mechanically complimentary to each other. As stated by the court in *In re Gazd*:

"In similar respect, the showing in Amburgey of a rotatable mounting for a clock wherein the winding is effected by movement of the clock parts relative to the stationary member is also important to recognize as affording a clear suggestion".

In other words, the decision of the court did not rest alone on Whitehead, but instead on a combination of Whitehead and Amburgey; with Amburgey teaching the mechanically opposite of Whitehead.

In the present application the situation is different. The prior art only teaches constructions in which the slidable contact of a potentiometer is movable and the coil is fixed. There is, however, no teaching in the prior art of holding the sliding contact stationary and having the coil movable relative to the sliding contact.

In order for the holding in *In re Gazda* to apply it is necessary for the Examiner to provide two prior art references, one showing a slidable contact with a fixed coil, and another showing a fixed contact and a movable coil. However, the Examiner has not provided two references. Instead, the Examiner has given only one reference (the equivalent of Whitehead) and not the necessary secondary reference (the equivalent of Amburgey). The Examiner provides no basis or motivation for making the modifications to the prior art necessary to arrive at the presently claimed invention.

In view of these considerations it is respectfully submitted that the rejection of claims 1-3, 5, 9, 12-14, 16 and 17 under 35 U.S.C. 103(a) over Sheeks the rejection of claims 1-3, 5, 9-13, 18 and 19 under 35 U.S.C. 103(a) over Wilkinson are overcome and should be withdrawn.

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The patent to McDermott discloses a portable lighting device. The Examiner combined McDermott with Wilkinson in determining that claims 14-17 would be unpatentable over such a combination. Applicant respectfully submits that McDermott adds nothing to the teachings of Wilkinson so as to teach the features of the presently claimed invention as discussed above in connection with the rejection of the independent claim. The combination does not teach a sliding contact stationary on the main body and a winding movable relative to the sliding contact, as in the presently claimed invention.

In view of these considerations it is respectfully submitted that the rejection of claims 14-17 under 35 U.S.C. 103(a) over a combination of the above-discussed references is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

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Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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Dated: May 16, 2005

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on May 16, 2005.

By: *F Kueffner*

Friedrich Kueffner

Date: May 16, 2005